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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 JENNIFER OSBELT,
16 Plaintiff,

17 v.

18 DAVID D. McDONALD, DONNA K.
19 McDONALD, and DOES 1 THROUGH 10,
20 inclusive,
21 Defendants.

22 DAVID D. McDONALD; DONNA K.
23 McDONALD; NATIONAL EXPERT
24 WITNESS NETWORK, a California Limited
25 Liability Company; TECHNOLOGY CLE, a
26 California Limited Liability Company,

27 Cross-Complainants,

28 v.

JENNIFER OSBELT, individually and doing
business as PALO ALTO TECHNICAL, and
DOES 1-10, inclusive,

Cross-Defendants.

Case No. CV 08-0534 JL

**PLAINTIFF'S AMENDED NOTICE OF
MOTION AND MOTION FOR REMAND
TO STATE COURT; MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Date: May 21, 2008
Time: 9:00 a.m.
Courtroom: 3
Judge: Hon. Phyllis J. Hamilton

AMENDED NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on May 21, 2008 at 9:00 a.m., or as soon thereafter as the matter may be heard, before the Honorable Phyllis J. Hamilton, in Courtroom 3 of the United States District Court, Northern District of California, San Francisco Division, 450 Golden Gate Avenue, San Francisco, Plaintiff and Counter-Defendant Jennifer Osbelt will move the Court for an order remanding this action to the Superior Court of the State of California, County of San Mateo, where the action and counter-claim was originally filed. Further, the plaintiff seeks costs and attorneys fees associated with the motion for remand.

This motion for remand is brought pursuant to 28 U.S.C. § 1447(c) and governing case law, on the basis that defendants and counter-plaintiffs National Expert Witness Network, David McDonald and Donna McDonald ("Defendants") wrongfully removed this case from state court to federal court, since the federal court does not have jurisdiction due to the action lacking a federal question.

Defendants' claim that the action involves an ERISA action is incorrect. The face of Plaintiff's complaint does not allege an ERISA cause of action or any federal question. Furthermore, Plaintiff's counsel does not seek a claim under any ERISA related cause of action. This motion is based upon this notice of motion and motion, the memorandum of points and authorities, the Declaration of Ara Jabaghourian, any papers filed in reply, the arguments of counsel, and all papers and records on file in this matter.

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RELIEF SOUGHT

Plaintiff Jennifer Osbelt (hereinafter "Plaintiff" or "Osbelt") seeks to remand this case, originally filed and pending in the State of California Superior Court for the County of San Mateo. This action must be remanded because Defendants removed the action to this Court without proper subject matter jurisdiction, and the District Court, therefore, lacks jurisdiction over this matter. Furthermore, the Plaintiff seeks costs and attorneys fees pursuant to 28 U.S.C. §1447(c).

DATED: April 7, 2008

COTCHETT, PITRE & McCARTHY

By: /s/ Ara Jabaghourian
ARA JABAGCHOURIAN
Attorneys for Plaintiff